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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/636,801	08/10/2000	Jennifer L. Mitcham	210121.462C4	6804

7590

02/26/2002

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EXAMINER

ZEMAN, MARY K

ART UNIT PAPER NUMBER

1631

DATE MAILED: 02/26/2002

14

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/636,801

Applicant(s)

MITCHAM ET AL.

Examiner

Mary Zeman

Art Unit

1631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3-8, 13-20, 22, 25-68 and 71-81 is/are pending in the application.
- 4a) Of the above claim(s) 3-8, 13-20, 22, 25-68, 71 and 72 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 73-81 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### **DETAILED ACTION**

Claims 3-8, 13-20, 22, 25-68, and 71-81 are pending in this application. Claims 3-8, 13-20, 22, 25-68, 71 and 72 stand withdrawn from consideration as being drawn to non-elected inventions, and should be canceled in response to this action. Claims 73-81 are newly added.

### ***Response to Arguments***

The declaration of Dr. G. Fanger under 37 CFR 1.132 filed 12/17/01 is sufficient to overcome the rejection of claims 1, 2, 9-12, 21, 23, 24 and 69 (replaced by claims 73-81) based upon 35 USC 101/112 Utility.

### ***Specification***

The amendment filed 12/17/01 (New Formal Drawings) is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The formal drawings submitted 12/17/01 include Figures 22-25 which were not present in the original disclosure. The specification at pages 5-7 lists and describes only 21 figures, and the transmittal papers for the application indicate only 21 figures were filed. As such, these new figures are new matter not supported by the original disclosure. There is no apparent basis in the examples or description for the data presented in the figures. If Applicant believes there is such a basis, that basis must be specifically pointed out, and the specification must be amended to discuss those figures.

Applicant is required to cancel the new matter in the reply to this Office Action.

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*Conclusion*

Claims 73-81 are allowed.

Claims 3-8, 13-20, 22, 25-68, 71 and 72 stand withdrawn from consideration.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary K Zeman whose telephone number is (703) 305-7133. The examiner can generally be reached between the hours of 7:00 am and 1:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, can be reached at (703) 308-4028.

Official fax numbers for this Art Unit are: (703) 308-4242, (703) 872-9306. An *unofficial* fax number, direct to the Examiner is (703) 746 5279. Please call prior to use of this number.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC1600 Receptionist whose telephone number is (703) 308-0196.

mkz  
2/21/02

  
MARY K. ZEMAN  
PRIMARY EXAMINER  
